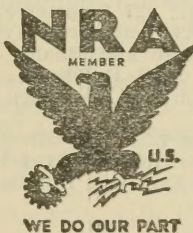


NATIONAL RECOVERY ADMINISTRATION

AMENDMENT TO
CODE OF FAIR COMPETITION
FOR THE
MOTOR VEHICLE RETAILING
TRADE

AS APPROVED ON MARCH 23, 1935



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AMENDMENT TO CODE OF FAIR COMPETITION

FOR THE

MOTOR VEHICLE RETAILING TRADE

As Approved on March 23, 1935

ORDER

APPROVING AMENDMENT OF CODE OF FAIR COMPETITION FOR THE MOTOR
VEHICLE RETAILING TRADE

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of an amendment to the Code of Fair Competition for the Motor Vehicle Retailing Trade, and hearings having been duly held thereon and the annexed report on said amendment, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, the National Industrial Recovery Board, pursuant to authority vested in it by Executive Orders of the President, including Executive Order No. 6859, dated September 27, 1934, and otherwise; does hereby incorporate, by reference, said annexed report and does find that said amendment and the Code as constituted after being amended comply in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act, and does hereby order that said amendment of said Code be and it is hereby approved, and that the previous approval of said Code is hereby amended to include an approval of said Code in its entirety as amended; provided that this amendment shall be effective only on Official Guides compiled and published in accordance with the pertinent provisions of this amendment, and provided, further, that all Official Guides effective on and after April 10, 1935 shall be compiled and published in conformity with the pertinent provisions of this amendment.

NATIONAL INDUSTRIAL RECOVERY BOARD,

By W. A. HARRIMAN, *Administrative Officer.*

Approval recommended:

BARTON W. MURRAY,

Division Administrator.

WASHINGTON, D. C.,

March 23, 1935.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: An application has been duly made pursuant to and in full compliance with the provisions of the National Industrial Recovery Act, for an amendment to the Code of Fair Competition for the Motor Vehicle Retailing Trade, submitted by the National Control Committee on behalf of the Emergency National Committee.

The purpose and effect of the amendment are to clarify and make more equitable the procedure now in effect, permitting members of the Trade to accept used motor vehicles in lieu of money in the sale of any motor vehicle, and to provide a record for establishment of maximum used motor vehicle allowances as determined by this procedure.

FINDINGS

The Deputy Administrator in his final report to us on said amendment to said Code having found as herein set forth, and on the basis of all the proceedings in this matter:

We find that:

(a) The amendment to said Code and the Code as amended are well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including the removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof, and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanction and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) The Code as amended complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7 and Subsection (b) of Section 10 thereof.

(c) The Code empowers the Code Authority to present the aforesaid amendment on behalf of the industry as a whole.

(d) The amendment and the Code as amended are not designed to and will not permit monopolies or monopolistic practices.

(e) The amendment and the Code as amended are not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said amendment.

For these reasons, therefore, we have approved this amendment. For the National Industrial Recovery Board:

W. A. HARRIMAN,
Administrative Officer.

MARCH 23, 1935.

AMENDMENT TO CODE OF FAIR COMPETITION FOR THE MOTOR VEHICLE RETAILING TRADE

Delete Article IV-A, with the exception of subsection (d) of Section (4) and Sections (5) and (6), and substitute therefor the following:

ARTICLE IV—TRADE REGULATIONS

The provisions of this article will cover the following motor vehicles: Passenger cars, trucks, and commercial vehicles with bodies of $\frac{3}{4}$ ton capacity and less, or such other capacity limitation as may be deemed proper by the National Recovery Administration.

A. USED MOTOR VEHICLE ALLOWANCE

In order to further mitigate the destructive practices which have resulted from the lack of a measure of value for used motor vehicles which dealers find it necessary to accept in lieu of money in the sale of motor vehicles and to promote fair and equitable treatment of the consumers of both new and used motor vehicles, this Trade agrees:

(1) The term fair market value of any series, model and body type (hereinafter referred to as model) of used motor vehicle is defined as a value for the better grade of such class of vehicles and which value is reasonably related to the average price that the public is paying for such class of motor vehicle and shall be ascertained by the Association subject to the approval of the National Recovery Administration as hereinafter provided.

(2) In ascertaining the fair market values specified in section (1) the Association shall compile the reports of dealers within the same or comparable trading areas, supported by sworn statements as to authenticity, showing actual retail sales of used motor vehicles to consumers during the preceding period of approximately thirty (30) days. To insure that the fair market value determined is indicative of the value of the better grade of used motor vehicles, there shall be included in the computation only those sales reported for each model which represent the sales prices actually obtained in normal transactions involving the sale of better grade used motor vehicles. The final determination of the fair market value for any individual model shall be in reasonable relationship with the majority of the fair market values prevailing for the various models of better grade motor vehicles of that particular make.

For all models lacking sufficient current sales to develop the fair market value by the method above described, the fair market value shall be determined by establishing such value upon the basis of those values shown by the computation of actual sales and other pertinent information which is available, to the end that this value

shall then be in reasonable relationship with the fair market values determined for similar or comparable models of used motor vehicles. The values so established shall from time to time be further surveyed by being sent to approximately 10% of the new motor vehicle dealers, if any, in each Official Guide area concerned handling that particular make of car, for their review. All comments received from such dealers, within a reasonable time, shall be considered in the final determination of the fair market values for such models.

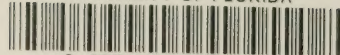
(3) No dealer shall, directly or indirectly, or by subterfuge, accept in trade in lieu of money, any used motor vehicle, giving an allowance price of more than its fair market value as published in the Official Guide, hereinafter described, less a minimum selling and handling charge of 15%, fractions of a dollar to be disregarded; provided, that the only limitation placed on the trade-in allowance for the current yearly models until the maximum allowances for such models are published in the Official Guide is that no dealer shall allow more than the local new motor vehicle delivered price for such motor vehicle. It is further provided that for other models on which a fair market value is not published in the Official Guide formulae for determining the maximum trade-in allowances shall be published in the Official Guide in accordance with the provisions of Section (4) subsection (c) below, and no dealer shall accept in trade any such used motor vehicle at an allowance greater than that determined by such formulae.

(4) (a) To provide a record for the establishment of maximum used motor vehicle allowances specified in Section (3) above, there shall be provided by the Association an Official Guide which shall be recognized as the Official Authority for such allowances. Said Official Guide shall contain the maximum trade-in allowance as provided in Section (3) and/or the fair market values ascertained as provided in Section (2). The Association shall publish such Official Guide as frequently as deemed advisable but in no case less frequently than approximately every sixty (60) days.

(b) Each dealer shall send the Association a used car sales report covering each used motor vehicle sold to the consuming public. Such report shall be forwarded promptly after the delivery of the car sold and all reports shall be forwarded at least weekly. A sworn statement covering all reports of such sales in each month shall be sent to the Association not later than the fifth day of the following month and such sworn statement shall show that reports have been made for all such used car sales during such previous months, and in the event no used car sales have been made during such month, the dealers shall so report in said sworn statement.

(c) To insure that the fair market values and the maximum trade-in allowances are determined in accordance with the intent of the provisions of Article IV-A, Sections (1), (2), (3) and (4) (a) and (b), the determination thereof shall be subject to the approval of the National Recovery Administration, which shall be afforded access to all records and operations relating thereto.

Upon determination by a representative designated by the National Recovery Administration that each issue of the Official Guide conforms with the provisions hereof and with such conditions as



the National Recovery Administration may stipulate as necessary prior to approval, a copy of such issue shall be so certified by such representative.

Thereupon said copy shall be submitted for the approval of the National Industrial Recovery Board, and upon approval, shall, together with the order of approval, constitute the official record of such action.¹

(c-1) The Official Guide shall be made available to all motor vehicle dealers at a price without profit, and to all other interested parties at a reasonable price.

Approved Code No. 46—Amendment No. 5.
Registry No. 1403-32.

¹ See paragraph 2 of order approving this Amendment.

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